

# Potential Recommendations for Redraft of RCW 70.38 and WAC 246-310

## Related to Certificate Of Need Program Review Criteria

(black: current statute language, green: task complete, red: action due)

RCW and WAC	Remaining Questions
<b><u>Current:</u></b> <b>RCW 70.38.115</b> <b>Certificates of need — Procedures — Rules —</b> <b>Criteria for review</b>	
(1) Certificates of need shall be issued, denied, suspended, or revoked by the designee of the secretary in accord with the provisions of this chapter and rules of the department which establish review procedures and criteria for the certificate of need program.	
(2) Criteria for the review of certificate of need applications, except as provided in subsection (3) of this section for health maintenance organizations, shall include but not be limited to consideration of the following: (a) The need that the population served or to be served by such services has for such services; (b) The availability of less costly or more effective alternative methods of providing such services; (c) The financial feasibility and the probable impact of the proposal on the cost of and charges for providing health services in the community to be served; (d) In the case of health services to be provided, (i) the availability of alternative uses of project resources for the provision of other health services, (ii) the extent to which such proposed services will be accessible to all residents of the area to be served, and (iii) the need for and the availability in the community of services and facilities for osteopathic physicians and surgeons and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathic medicine and surgery and medicine at the student, internship, and residency training levels; (e) In the case of a construction project, the costs and methods of the proposed construction, including the cost and methods	

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<p>of energy provision, and the probable impact of the construction project reviewed</p> <ul style="list-style-type: none"> <li>(i) on the cost of providing health services by the person proposing such construction project and</li> <li>(ii) on the cost and charges to the public of providing health services by other persons;</li> </ul> <p>(f) The special needs and circumstances of osteopathic hospitals, nonallopathic services and children's hospitals;</p> <p>(g) Improvements or innovations in the financing and delivery of health services which foster cost containment and serve to promote quality assurance and cost-effectiveness;</p> <p>(h) In the case of health services proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;</p> <p>(i) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past;</p> <p>(j) In the case of hospital certificate of need applications, whether the hospital meets or exceeds the regional average level of charity care, as determined by the secretary; and</p> <p>(k) In the case of nursing home applications:</p> <ul style="list-style-type: none"> <li>(i) The availability of other nursing home beds in the planning area to be served; and</li> <li>(ii) The availability of other services in the community to be served. Data used to determine the availability of other services will include but not be limited to data provided by the department of social and health services.</li> </ul>	
<p>(3) A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:</p> <ul style="list-style-type: none"> <li>(a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll; and</li> <li>(b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes</li> </ul>	

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<p>such services available on a long-term basis through physicians and other health professionals associated with it.</p> <p>A health care facility, or any part thereof, with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.</p>	
<p><b><u>Potential Revision:</u></b></p> <p><b>RCW 70.38.115</b>  <b>Certificates of need — Procedures — Rules —</b>  <b>Criteria for review —</b></p>	<p>1. Which of the following statements would assure that CON criteria for review are consistent, clear, technically sound, and reflect state law:</p> <p>(1) Update and refine existing four criteria of need, financial feasibility, structure and process of care, and cost containment on an industry specific basis.</p> <p>OR</p> <p>(2) Develop review criteria, at a minimum, concerning community need, financial feasibility, appropriate service, quality delivery process, and measurable performance related to health outcomes.</p> <p>The TAC proposal reaffirmed the need for the existing four criteria, as codified in RCW 70.38.115, but identified that the criteria needed to be reviewed and updated or refined as indicated for currency.</p>

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	<p>2. What additional components are needed to update the criteria for review of Certificate of Need applications, in addition to:</p> <ul style="list-style-type: none"><li>(1) Criteria, or sub-criteria, related to outcomes with consideration, where applicable of the Institute of Medicine Quality Initiative aims</li><li>(2)</li><li>(3)</li></ul> <p>The TAC proposal, as affirmed by the Task Force, would be a recommendation for revision of RCW 70.38.115.</p>